

# STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

## *ENERGY FACILITY SITING BOARD*

### **DRAFT** Minutes of Open Meeting Held January 29, 2015 9:30am

**Board Members Present:** Margaret E. Curran, Janet L. Coit

**Board Staff Present:** Todd Bianco, Coordinator; Patricia Lucarelli, Board Counsel; Susan Forcier, DEM Counsel

**Chairperson Curran called the meeting to order at 9:38 AM in Hearing Room A of the Public Utilities Commission offices building. A quorum of the Energy Facility Siting Board (Board) was present.<sup>1</sup>**

Chairperson Curran introduced herself and Director Coit and had Counsel Lucarelli, Counsel Forcier and Coordinator Bianco identify themselves for the record. Chairperson Curran explained that public comment would not be heard and that the Board would now discuss, deliberate, and decide on outstanding matters described in the open meeting notice.

The first item of business was approval of the minutes of the Board's open meeting held on November 16, 2015. Director Coit moved to approve. Chairperson Curran seconded. The minutes were approved. **Vote 2-0.**

The Chairperson introduced the next item of business, Docket No. SB-2015-06 – Invenergy Thermal Development LLC's (Invenergy) Application to Construct the Clear River Energy Center Power Plant in Burrillville, Rhode Island. Invenergy's application, filed on October 29, 2015, seeks to construct a dual fuel, combined-cycled electric generating facility in Burrillville, Rhode Island. The Board needed to rule on outstanding motions, determine issues for review, designate agencies for advisory opinions, and identify exempt licenses.

Motion to Intervene filed by Residents of Wallum Lake Road, Pascoag, Rhode Island, Dennis Sherman and Kathryn Sherman and Motion to Intervene filed by Residents of Wallum Lake Road, Pascoag, Rhode Island, Paul Bolduc and Mary Bolduc. The Board members discussed the merits of the two separate, but very similar, motions to intervene and expressed agreement that the both parties had directly-affected interests that could not be adequately represented by existing parties. Director Coit moved to approve the Shermans' and Bolducs' motions to intervene. Chairperson Curran seconded. The Board approved both the Shermans' and the Bolducs' motions to intervene. **Vote 2-0.**

Motion to Intervene filed by the Rhode Island Progressive Democrats of America. The Board members discussed the merits of the Rhode Island Progressive Democrats of America's and expressed agreement that the movant failed to identify a direct interest not adequately represented by an existing party or an interest of such a nature that the movant's participation in the proceeding was in the public interest. Director Coit moved to deny Rhode Island Progressive Democrats of

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<sup>1</sup> A stenographer was present to record the meeting. Please contact A-1 Court Reporters, Inc. for a copy of the transcript at 401-405-0410.

America's motion to intervene. Chairperson Curran seconded. The Board denied the Rhode Island Progressive Democrats of America's motion to intervene. **Vote 2-0.**

Director Coit then noted for the record that while the two Board Members present constituted a quorum, the Board was a three-member body, and a new appointee was expected soon.

Motion to Intervene filed by Fighting Against Natural Gas and Burrillville Against Spectra Expansion (FANG and BASE). The Board members discussed the merits of FANG and BASE's motion to intervene and expressed agreement that the movant failed to show an interest of such a nature that the movant's participation in the proceeding was in the public interest. Chairperson Curran moved to deny FANG and BASE's motion to intervene. Director Coit seconded. The Board denied FANG and BASE's motion to intervene. **Vote 2-0.**

Motion to Intervene filed by Fossil Free Rhode Island, Motion to Intervene filed by Sister Mary Pendergast, and Motion to Intervene filed by Occupy Providence. The Board members discussed the merits of the three separate motions to intervene, which were virtually identical, and expressed agreement that the movant failed to show an interest of such a nature that the movant's participation in the proceeding was in the public interest. Chairperson Curran moved to deny the motions for intervention of Fossil Free Rhode Island, Sister Mary Pendergast, and Occupy Providence. Director Coit seconded. The Board denied the motions to intervene of Fossil Free Rhode Island, Sister Mary Pendergast, and Occupy Providence. **Vote 2-0.**

After the Board ruled on these motions, a member of the public interrupted the Board's meeting, making comments to the Board. Chairperson Curran again explained that public comment was not going to be heard by the Board. The person was escorted out of the hearing room by a uniformed Warwick police officer. Another member of the public then stood up, also made comments to the Board, and immediately left the hearing room.

Motion to Intervene filed by Fossil Free Rhode Sally Mendzela. The Board members discussed the merits of the motion to intervene and expressed agreement that the movant failed to show an interest of such a nature that the movant's participation in the proceeding was in the public interest. Chairperson Curran moved to deny Sally Mendzela's motion to intervene. Director Coit seconded. The Board denied Sally Mendzela's motion to intervene. **Vote 2-0.**

Motion to Intervene filed by Burrillville Land Trust. The Board members discussed the merits of the motion and found agreement that the movant failed to show an interest of such a nature that the movant's participation in the proceeding was in the public interest. Chairperson Curran moved to deny Burrillville Land Trust's motion to intervene. Director Coit seconded. The Board denied Burrillville Land Trust's motion to intervene. **Vote 2-0.**

FANG and BASE's motion to extend the intervention deadline and postpone the preliminary hearing and Burrillville Land Trust's motion to close the docket. Chairperson Curran noted for the record that the Board would not and did not address FANG and BASE's motion to extend the intervention deadline and postpone the preliminary hearing and Burrillville Land Trust's motion to close the docket because they are not properly before the Board as the movants were denied party status.

The Board then discussed the matters covered in Rule 1.9(f) and specifically enumerated the following issues:

- Whether the propose project is necessary to meet the energy needs of the state and region,

- Whether the proposed project cost justified, will comply with the law, and would waivers from certain laws be justified,
- Whether the proposed project will cause unacceptable harm to the environment,
- Whether the proposed facility will enhance the socioeconomic fabric of the state, and
- Whether the construction and operation of the facility consistent with the State Guide Plan.

The Board then identified and directed that the following advisory opinions be rendered related to the aforementioned issues:

- The PUC will render an advisory opinion as to the need and cost of the facility. The Division of Planning, the Office of Energy Resources (OER), and the Division of Public Utilities and Carriers will participate in the rendering of the PUC's advisory opinion.
- The Statewide Planning Program will render an advisory opinion addressing the socioeconomic impact of the facility and whether construction and operation of the proposed facility is consistent with the State Guide Plan as well as, with coordination from OER, the State Energy Plan.
- OER will render an advisory opinion as to the facility's impacts on climate change and conformance with state policies regarding climate change and energy in collaboration with the Rhode Island Executive Climate Change Coordinating Council (EC4) with assistance from DEM.
- The Department of Health will render an advisory opinion regarding all potential public health concerns related to the project, with specific comment and review on Section 6.11 in Appendix F of the application.
- The Burrillville Planning Board will render an advisory opinion on conformance with its Comprehensive Planning and Land Use Act plan, as well as whether the applicant will be able to comply with the Burrillville noise ordinance.
- DEM will render an advisory opinion regarding the facility's fuel oil storage proposal; whether the proposal presents unacceptable potential harm to public safety or the environment; the facility's impacts on the use of Pascoag's contaminated well; its impacts on fish and wildlife; its impacts on compliance with the Regional Greenhouse Gas Initiative; and its impacts on compliance with the Federal Clean Power Plan.
- The Burrillville Zoning Board of Review will render an advisory opinion as to whether the project meets zoning ordinances and whether variances should be granted; whether a special use permit should be granted to exempt the project from construction-hour restrictions; and whether the applicant will be able to comply with the noise ordinance.
- The Burrillville Building Inspector will render an advisory opinion on whether the construction of the facility is subject to Burrillville's erosion and sediment control ordinance and, if so, whether the plan would conform to the ordinance; and whether the project would meet the other municipal ordinances.
- The Rhode Island Historical Preservation and Heritage Commission will render an advisory opinion as to whether the project would be subject to its jurisdiction; if so, whether the project would conform to relevant requirements; and whether any required approval or exemptions would to be granted.
- The Department of Transportation (DOT) will render an advisory opinion as to whether a utility permit; a physical alteration permit; or any other DOT permit would be required and issued for the project, with specific consideration of potential impacts to the traffic associated with the project during construction and impacts to the condition of roads.

- The Burrillville Tax Assessor will render an advisory opinion as to the project's impact on property values in Burrillville and on property abutters.
- The Pascoag Utility District will render an advisory opinion on the impacts to water supply and use in the district, as well as an explanation about the water use plan from the polluted well.

The Board then enumerated the following exempt licenses:

- Freshwater wetlands permits issued pursuant to the federal Freshwater Wetlands Act;
- Air pollution prevention permits pursuant to the federal Clean Air Act;
- Water quality permits pursuant to the federal Clean Water Act;
- RI Pollution Discharge Elimination System permit pursuant to the federal Clean Water Act;
- Permits and licenses issued by the Coastal Resources Management Council.

Director Coit noted for the record that the first public hearing for public comment regarding Invenergy's application would be held at 6:00 PM on Thursday, March 31, 2016 in Burrillville, Rhode Island in the high school cafeteria.

#### **Undocketed Petition – Conservation Law Foundation's (CLF) Petition for Rulemaking**

Finally, the Board discussed the issues raised by the Conservation Law Foundation's (CLF) undocketed Petition for Rulemaking. The Board Members agreed that a rulemaking for the specific reasons enumerated by CLF were not necessary. Chairperson Curran moved to deny CLF's petition for rulemaking. Director Coit seconded the motion. The Board denied CLF's petition.  
**Vote: 2-0.**

Director Coit moved to adjourn. Chairperson Curran seconded the motion, and the meeting was adjourned.

**The open meeting adjourned at 10:53 AM.**